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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 BILL L. HEMENWAY,

11 Petitioner,

12 v.

13 STATE OF WASHINGTON, JEFFREY
14 UTTECHT,

15 Respondent.
16

Case No. C07-5634RBL

ORDER

17 The Court, having reviewed the petition for habeas corpus, respondent's Answer, the Report and
18 Recommendation of Judge J. Kelley Arnold, United States Magistrate Judge, Petitioner's Objection to the
19 Report and Recommendation, and the remaining record, does hereby find and ORDER.

- 20 (1) The Court adopts the Report and Recommendation.
- 21 (2) Petitioner is not entitled to an evidentiary hearing on his equitable tolling claim.
- 22 (3) The Petition was not filed within the one year period of limitation, and it is therefore
23 DENIED.
- 24 (4) Petitioner's pending motions, if any, are DENIED, as being moot.
- 25 (5) The Court hereby issues a certificate of appealability on Petitioner's claim that the time for
26 filing his petition should be equitably tolled. 28 U.S.C. §2253(c).
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1 (6) The Clerk is directed to send copies of this Order to plaintiff, to counsel of record, and to
2 the Hon. J. Kelley Arnold.

3 DATED this 24th day of March, 2009.

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5 RONALD B. LEIGHTON
6 UNITED STATES DISTRICT JUDGE